

EXHIBIT B

Leaf Declaration

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF IOWA**

In re:)	
)	Chapter 11
MERCY HOSPITAL, IOWA CITY, IOWA, <i>et al.</i> ,)	Case No. 23-00623 (TJC)
)	
Debtors.)	Jointly Administered
)	
)	
)	

**DECLARATION OF ROY LEAF IN SUPPORT OF TRUST OVERSIGHT
COMMITTEE’S EXPEDITED MOTION FOR ORDER (I) SETTING EVIDENTIARY
HEARING, (II) REQUIRING MERCYONE TO APPEAR AND SHOW CAUSE AT THE
EVIDENTIARY HEARING, AND (III) SUSPENDING AND EQUITABLY TOLLING
CERTAIN STATUTES OF LIMITATION**

I, Roy Leaf, submit this declaration under 28 U.S.C. § 1746 and declare as follows:

1. I am an attorney with the law firm Nyemaster Goode, P.C., counsel for The Mercy Hospital Liquidation Trust Oversight Committee as designee of the Liquidation Trustee (the “OC”).

2. I submit this Declaration in support of the *Trust Oversight Committee’s Expedited Motion for Order (I) Setting Evidentiary Hearing, (II) Requiring MercyOne to Appear and Show Cause at the Evidentiary Hearing, and (III) Suspending and Equitably Tolling Certain Statutes of Limitation* (“Motion”)¹ and to provide true and correct copies of documents cited in the Motion.

3. Unless otherwise stated, I base this Declaration on personal knowledge.

4. Attached to the Motion as Exhibit C is a true and accurate copy of the letter I sent to counsel for MercyOne regarding our discovery of MercyOne’s deficiencies and/or non-compliance with respect to the OC Rule 2004 Order (the “OC Letter”), which was sent

¹ Capitalized terms used herein but not otherwise defined shall have the meaning ascribed to them in the Motion.

immediately following the conclusion of depositions of MercyOne's representatives on June 20, 2025.

5. On Wednesday, June 25, 2025 starting at approximately 2:15 P.M., I participated in a meet-and-confer conference with MercyOne's counsel regarding the OC Letter. During the meet and confer conference, little progress was made. Counsel for MercyOne threatened to move for sanctions against me and/or the OC if the OC initiated contempt proceedings against MercyOne.

6. On Wednesday, June 25, 2025 following the meet and confer conversation, in an effort to further address issues related to MercyOne's compliance with the OC Rule 2004 Order outside of court, I asked counsel for MercyOne to provide a declaration pursuant to 28 U.S.C. § 1746 "explaining (i) the process used to look for both electronic documents and communications, (ii) why only one email file was included in the production to [the OC], and (iii) if email communications in MercyOne's possession were previously deleted/destroyed, as testified to by MercyOne's representatives at their recent depositions." A true and accurate copy of this correspondence is attached hereto as **Exhibit 1**.

7. Attached to the Motion as Exhibit D is a true and accurate copy of the letter I received from MercyOne's counsel on Thursday, June 26, 2025 in response to our meet and confer communications and the OC Letter.

8. Based on the representations made by MercyOne and its counsel during the weeks-long Rule 2004 meet and confer process and status conferences, the OC and I understood that MercyOne had a significant number of electronic communications in its possession related to MIC. At no point prior to the depositions of MercyOne representatives on June 19, 2025 and June 20,

2025 did MercyOne indicate to me or the OC that it no longer possessed any electronic communications from the time periods that it agreed to in the OC Rule 2004 Order.

[Remainder of Page Intentionally Left Blank]

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Executed on June 30, 2025 at Cedar Rapids, Iowa.

/s/ Roy Leaf
Roy Leaf

Exhibit 1

Correspondence Between Counsel

Roy Leaf

From: Goroff, David B. <DGoroff@foley.com>
Sent: Thursday, June 26, 2025 12:13 PM
To: Roy Leaf
Cc: Michael Reck; Christopher J. Jessen; Paula Roby; John Dinan; Patrick Magallanes; Leslie C. Behaunek; Logan J. Eliassen; McGuffey, Nora J.
Subject: Re: Mercy Trust: Letter Regarding MercyOne Documents and Production

Warning – This message was sent from outside the firm dgoroff@foley.com. Please do not click links or open attachments unless you recognize the source of this email and know the content is safe.

Your summary is not entirely accurate. I said you were asking about policy choices behind the Document Retention Policy and its use and that is not in the purview of an IT person and if you believed otherwise to provide reasons and law, which you have not. Also, I asked if you doubt that the IT people ran searches even though I represented they did and if so why. And here you misrepresent what Trachta and Ritz testified to, as they did not speak to what IT did or represent they were who did all searches.

From: Roy Leaf <rleaf@nyemaster.com>
Sent: Thursday, June 26, 2025 12:05:11 PM
To: Goroff, David B. <DGoroff@foley.com>
Cc: Michael Reck <MRReck@belinmccormick.com>; Christopher J. Jessen <CJessen@belinmccormick.com>; Paula Roby <Paula@drpjlaw.com>; John Dinan <jdinan@phccap.com>; Patrick Magallanes <pmagallanes@steindler.com>; Leslie C. Behaunek <lcbahaunek@nyemaster.com>; Logan J. Eliassen <LEliassen@nyemaster.com>; McGuffey, Nora J. <nora.mcguiffey@foley.com>
Subject: RE: Mercy Trust: Letter Regarding MercyOne Documents and Production

***** EXTERNAL EMAIL MESSAGE *****

David,

You told us during our meet and confer that individuals in MercyOne's IT department ran the ESI search process. We have significant questions about the process and whether email communications exist or were deleted based on the receipt of only 1 email in the ESI production and the testimony of both MercyOne's CEO and Mr. Trachta.



ROY LEAF | NYEMASTER GOODE, P.C.

Shareholder Attorney

625 First Street SE, Ste 400, Cedar Rapids, IA 52401-2030
rleaf@nyemaster.com | T (319) 286-7002 | F (319) 286-7050

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From: Goroff, David B. <DGoroff@foley.com>

Sent: Thursday, June 26, 2025 12:00 PM

To: Roy Leaf <rleaf@nyemaster.com>

Cc: Michael Reck <MRReck@belinmccormick.com>; Christopher J. Jessen <CJessen@belinmccormick.com>; Paula Roby <Paula@drpjlaw.com>; John Dinan <jdinan@phccap.com>; Patrick Magallanes <pmagallanes@steindler.com>; Leslie C. Behaunek <lcbehaunek@nyemaster.com>; Logan J. Eliassen <LEliassen@nyemaster.com>; McGuffey, Nora J. <nora.mcguffey@foley.com>

Subject: Re: Mercy Trust: Letter Regarding MercyOne Documents and Production

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I did not refuse. I asked for additional information and explanation. Are you refusing to provide this?

From: Roy Leaf <rleaf@nyemaster.com>

Sent: Thursday, June 26, 2025 11:58:08 AM

To: Goroff, David B. <DGoroff@foley.com>

Cc: Michael Reck <MRReck@belinmccormick.com>; Christopher J. Jessen <CJessen@belinmccormick.com>; Paula Roby <Paula@drpjlaw.com>; John Dinan <jdinan@phccap.com>; Patrick Magallanes <pmagallanes@steindler.com>; Leslie C. Behaunek <lcbehaunek@nyemaster.com>; Logan J. Eliassen <LEliassen@nyemaster.com>; McGuffey, Nora J. <nora.mcguffey@foley.com>

Subject: RE: Mercy Trust: Letter Regarding MercyOne Documents and Production

***** EXTERNAL EMAIL MESSAGE *****

David,

I am in receipt of your response email on 6/25 at 5:41 PM. Based on your refusal to provide the declaration I asked for in my email yesterday afternoon, which was requested in order to avoid court involvement, we will need to seek court relief as I indicated in my email. For the avoidance of doubt, we deny in full the accusations you made in your response and during our meet and confer call.



ROY LEAF | NYEMASTER GOODE, P.C.

Shareholder Attorney

625 First Street SE, Ste 400, Cedar Rapids, IA 52401-2030

rleaf@nyemaster.com | T (319) 286-7002 | F (319) 286-7050

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From: Goroff, David B. <DGoroff@foley.com>

Sent: Wednesday, June 25, 2025 5:41 PM

To: Roy Leaf <rleaf@nyemaster.com>

Cc: Michael Reck <MRReck@belinmccormick.com>; Christopher J. Jessen <CJessen@belinmccormick.com>; Paula Roby <Paula@drpilaw.com>; John Dinan <jdinan@phccap.com>; Patrick Magallanes <pmagallanes@steindler.com>; Leslie C. Behaunek <lcbehaunek@nyemaster.com>; Logan J. Eliassen <LEliassen@nyemaster.com>; McGuffey, Nora J. <nora.mcguffey@foley.com>

Subject: RE: Mercy Trust: Letter Regarding MercyOne Documents and Production

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Roy, your letter emailed to me on June 20, 2025 and your email on June 24, 2025 are both predicated on your assertion that “MercyOne was on notice form communication with Mercy Iowa City’s restructuring advisors at least as early as February 2023, that it could reasonably anticipate a future complaint by it by Mercy Iowa City or its successor(s).” In our call today, I asked you to identify these communications today and all you said was that the restructuring advisors meant Mark Toney and McDermott Will & Emery, without identifying who from McDermott or the dates and nature of these purported communications. I asked you to send me the referenced communications at this time and you refused. I told you I would need to see these to appropriately assess the basis of your intended motion, but you continued your refusal. I advised you that we believe the assertion is utterly false, as based on the OC’s own admissions, there was no litigation against MercyOne that was either imminent or reasonably certain. I advised you that if you represented otherwise as a basis for sanctions, we would cross-move, as such a claim would be false, frivolous and contrary to law. I advised you that frivolous sanctions motions are themselves sanctionable and that we regarded your improper threats as a vexatious sideshow, in violation of 28 U.S.C. §1927. I told you our call satisfied any need for further conferral in advance of such a cross-motion.

Your request below asks for an IT person to provide a declaration stating the reasons why emails may not exist in MercyOne’s records. That does not appear to be a question for an IT person, and therefore lacks logic and purpose. If you believe otherwise please explain why and provide any supporting law you have. I advised you in our conferral that IT professionals ran every search term we agreed to with you against the agreed custodians, generating 8078 pages of ESI, among nearly 11,000 pages of documents produced. If you believe have reason to doubt my representation, please explain why. Otherwise, your demand below seems yet further example of vexatiousness.

I will respond to you with an appropriate letter responding to your June 20 and June 2025 by Friday June 27 COB.

--David

David B. Goroff
Partner

Foley & Lardner LLP | Chicago, IL
Phone 312.832.5160 | Cell 847.921.1199
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From: Roy Leaf <rleaf@nyemaster.com>
Sent: Wednesday, June 25, 2025 3:52 PM
To: Goroff, David B. <DGoroff@foley.com>

Cc: Michael Reck <MRReck@belinmccormick.com>; Christopher J. Jessen <CJessen@belinmccormick.com>; Paula Roby <Paula@drpjlaw.com>; John Dinan <jdinan@phccap.com>; Patrick Magallanes <pmagallanes@steindler.com>; Leslie C. Behaunek <lcbehaunek@nyemaster.com>; Logan J. Eliassen <LEliassen@nyemaster.com>; McGuffey, Nora J. <nora.mcguffey@foley.com>

Subject: RE: Mercy Trust: Letter Regarding MercyOne Documents and Production

***** EXTERNAL EMAIL MESSAGE *****

David,

I am following up on our meet and confer conversation this afternoon. You indicated to us that MercyOne's IT department *did* run each of the search terms that we negotiated over the course of many weeks and that the result of these searches were the documents produced at ESI0001-ESI8068. In that production set there is only one email file—ESI6866. This corroborates the sworn testimony of Mr. Ritz and Mr. Trachta that all email communications related to MIC were deleted/destroyed in early 2023.

We respectfully request that MercyOne provide a declaration pursuant to 28 USC 1746 from someone with authority and knowledge in MercyOne's IT department explaining (i) the process used to look for both electronic documents and communications, (ii) why only one email file was included in the production to us, and (iii) if email communications in MercyOne's possession were previously deleted/destroyed, as testified to by MercyOne's representatives at their recent depositions, *why* large numbers of electronic communications were deleted, destroyed, or otherwise unavailable as a result of the merger with Trinity. Please provide this declaration by **noon on Friday, June 27th**. As we have made clear, we have substantial concerns about the imminent upcoming expiration of the statute of limitations on certain claims and need these issues addressed immediately. If MercyOne refuses to provide this declaration, we will have no choice but to seek court intervention.

Finally, I do not appreciate your threats of personal sanctions against me and/or my client during our meet and confer call. These are serious issues that have immense importance to my clients and the creditors or these estates. We do not take them lightly, they are not "frivolous," and I request you refrain from this behavior moving forward on this matter.



ROY LEAF | NYEMASTER GOODE, P.C.

Shareholder Attorney

625 First Street SE, Ste 400, Cedar Rapids, IA 52401-2030

rleaf@nyemaster.com | T (319) 286-7002 | F (319) 286-7050

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From: Goroff, David B. <DGoroff@foley.com>

Sent: Tuesday, June 24, 2025 4:00 PM

To: Roy Leaf <rleaf@nyemaster.com>

Cc: Michael Reck <MRReck@belinmccormick.com>; Christopher J. Jessen <CJessen@belinmccormick.com>; Paula Roby <Paula@drpjlaw.com>; John Dinan <jdinan@phccap.com>; Patrick Magallanes <pmagallanes@steindler.com>; Leslie C. Behaunek <lcbehaunek@nyemaster.com>

Subject: RE: Mercy Trust: Letter Regarding MercyOne Documents and Production

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Roy, please also send an invite to Nora McGuffey. Thanks!

David B. Goroff
Partner

Foley & Lardner LLP | Chicago, IL
Phone 312.832.5160 | Cell 847.921.1199
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FOLEY & LARDNER LLP

From: Roy Leaf <rleaf@nyemaster.com>
Sent: Tuesday, June 24, 2025 3:44 PM
To: Goroff, David B. <DGoroff@foley.com>
Cc: Michael Reck <MRReck@belinmccormick.com>; Christopher J. Jessen <CJessen@belinmccormick.com>; Paula Roby <Paula@drpjlaw.com>; John Dinan <jdinan@phccap.com>; Patrick Magallanes <pmagallanes@steindler.com>; Leslie C. Behaunek <lcbahaunek@nyemaster.com>
Subject: RE: Mercy Trust: Letter Regarding MercyOne Documents and Production

***** EXTERNAL EMAIL MESSAGE *****

Thank you. I will send a Zoom.



ROY LEAF | NYEMASTER GOODE, P.C.

Shareholder Attorney

625 First Street SE, Ste 400, Cedar Rapids, IA 52401-2030
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From: Goroff, David B. <DGoroff@foley.com>
Sent: Tuesday, June 24, 2025 3:38 PM
To: Roy Leaf <rleaf@nyemaster.com>
Cc: Michael Reck <MRReck@belinmccormick.com>; Christopher J. Jessen <CJessen@belinmccormick.com>; Paula Roby <Paula@drpjlaw.com>; John Dinan <jdinan@phccap.com>; Patrick Magallanes <pmagallanes@steindler.com>; Leslie C. Behaunek <lcbahaunek@nyemaster.com>
Subject: RE: Mercy Trust: Letter Regarding MercyOne Documents and Production

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Roy, in an effort to accommodate your request, Chris and I can be free tomorrow from 2-3, and will plan to speak with you then.

David B. Goroff
Partner

Foley & Lardner LLP | Chicago, IL
Phone 312.832.5160 | Cell 847.921.1199
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FOLEY & LARDNER LLP

From: Roy Leaf <rleaf@nyemaster.com>
Sent: Tuesday, June 24, 2025 10:49 AM
To: Goroff, David B. <DGoroff@foley.com>
Cc: Michael Reck <MRReck@belinmccormick.com>; Christopher J. Jessen <CJessen@belinmccormick.com>; Paula Roby <Paula@drpjlaw.com>; John Dinan <jdinan@phccap.com>; Patrick Magallanes <pmagallanes@steindler.com>; Leslie C. Behaunek <lcbehaunek@nyemaster.com>
Subject: RE: Mercy Trust: Letter Regarding MercyOne Documents and Production

***** EXTERNAL EMAIL MESSAGE *****

David,

Time is of the essence for us. As you are aware, the statute of limitations for certain claims runs on August 7, 2025 pursuant to Bankruptcy Code section 546. The documents and communications that MercyOne represented it had access to during the course of our Rule 2004 motion process are critical to our investigation and assessing claims that may exist. We are prepared to move quickly in the bankruptcy court to address this issue to preserve rights on behalf of the creditors of the estates.

I have attached portions of the rough transcript from Mr. Trachta's deposition and Mr. Ritz's 30(b)(6) deposition that clearly indicate that MercyOne believes it no longer has access to any electronic documents or communications related to Mercy Iowa City and that it did not run the search terms that we spent weeks negotiating. We do not view this as a complicated legal issue—either MercyOne made false representations to us during the Rule 2004 process or MercyOne did not undertake sufficient efforts with Trinity to obtain access to documents and communications.

Please provide your availability to discuss tomorrow. I believe the transcripts I have provided should address the concerns you raised. If we are not able to resolve these issues expeditiously, we will be filing a motion for an in-person show cause hearing and requesting it be held on July 14th. Again, time is of the essence and, to the extent that responsive documents and communications are somehow still available, we need to gain access to these materials ASAP in light of the August 7th deadline. Just so you are aware, to the extent that you continue to insist on meeting and conferring next Monday and a show cause motion is still needed after our discussion, that will work to reduce the amount of time MercyOne has to respond to any such motion.

ROY LEAF | NYEMASTER GOODE, P.C.



Shareholder Attorney

625 First Street SE, Ste 400, Cedar Rapids, IA 52401-2030

rleaf@nyemaster.com | T (319) 286-7002 | F (319) 286-7050

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From: Goroff, David B. <DGoroff@foley.com>

Sent: Monday, June 23, 2025 6:18 PM

To: Roy Leaf <rleaf@nyemaster.com>

Cc: Michael Reck <MRReck@belinmccormick.com>; Christopher J. Jessen <CJessen@belinmccormick.com>; Paula Roby <Paula@drpjlaw.com>; John Dinan <jdinan@phccap.com>; Patrick Magallanes <pmagallanes@steindler.com>; Leslie C. Behaunek <lcbehaunek@nyemaster.com>

Subject: RE: Mercy Trust: Letter Regarding MercyOne Documents and Production

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Roy, you raised a number of issues in your letter, including legal questions and issues that depend on transcript excerpts. We are running these down and will not have these gathered and reviewed in the next two days. I plan to get you a written response this Friday and, to me, it would be most productive for each of us to confer the following Monday after you have a chance to review that response. I am generally available to confer next Monday, June 30, but would like Chris Jessen to also join and have not connected yet. Therefore, please give me the range of times you have available then and we will set something mutually convenient. Thanks!

--David

David B. Goroff

Partner

Foley & Lardner LLP | Chicago, IL

Phone 312.832.5160 | Cell 847.921.1199

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FOLEY & LARDNER LLP

From: Roy Leaf <rleaf@nyemaster.com>

Sent: Monday, June 23, 2025 4:20 PM

To: Goroff, David B. <DGoroff@foley.com>

Cc: Michael Reck <MRReck@belinmccormick.com>; Christopher J. Jessen <CJessen@belinmccormick.com>; Paula Roby <Paula@drpjlaw.com>; John Dinan <jdinan@phccap.com>; Patrick Magallanes <pmagallanes@steindler.com>; Leslie C. Behaunek <lcbehaunek@nyemaster.com>

Subject: RE: Mercy Trust: Letter Regarding MercyOne Documents and Production

***** EXTERNAL EMAIL MESSAGE *****

David,

Checking back. Please provide your availability to meet and confer tomorrow and Wednesday.

Thank you,



ROY LEAF | NYEMASTER GOODE, P.C.

Shareholder Attorney

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From: Roy Leaf

Sent: Friday, June 20, 2025 4:54 PM

To: 'Goroff, David B.' <DGoroff@foley.com>

Cc: Michael Reck <MRReck@belinmccormick.com>; Christopher J. Jessen <CJessen@belinmccormick.com>; Paula Roby <Paula@drpjlaw.com>; John Dinan <jdinan@phccap.com>; 'Patrick Magallanes' <pmagallanes@steindler.com>; Leslie C. Behaunek <lcbahaunek@nyemaster.com>

Subject: Mercy Trust: Letter Regarding MercyOne Documents and Production

David,

Please see attached letter and provide us your availability to meet and confer early next week.

Thank you,

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